

Robert D. Mecum
Acting Administrator
Alaska Region, National Marine Fisheries Service
US Department of Commerce
National Oceanic and Atmospheric Administration
P.O. Box 21688
Juneau, Alaska 99802-1668

Re: Pebble Mine Project, Technical Working Groups

Dear Mr. Mecum:

Thank you for your letter of September 5, 2008 concerning the Technical Working Groups (TWG's) established by the Pebble Limited Partnership (PLP) to coordinate agency review of baseline environmental data for the proposed Pebble Mine. Your letter identified concerns regarding the experiences of National Marine Fisheries Service (NMFS) staff who participate in a number of TWG's and you request a meeting with EPA and other Federal and State agencies that participate in the TWGs to discuss and identify a process for resolving these concerns.

Your letter stated that you are concerned that it is not clear whether or not NMFS's comments are being considered by the PLP. For example, you describe NMFS staff submitting suggestions for changes to baseline study designs, then not seeing subsequent changes or acknowledgement from PLP that those suggestions had been considered and, if rejected, why. This results in an inability to confirm that ongoing or planned studies will be adequate for analyzing potential impacts to fish and fish habitat.

EPA, NMFS and some seven other agencies participate in the Steering Committee, that oversees the TWGs, and in seven TWG's because the project if developed, has the potential to significantly impact the environment and natural resources in Alaska. EPA participates in the TWGs with the expectation that this up-front investment will result in better environmental data and decision-making down the road. EPA agrees that participation must be meaningful and productive for all involved. As stated in the *TWG Operating Protocols and Guidelines*, (summer 2007) the TWG purpose is "to facilitate coordinated agency review, comment, issue clarification and resolution regarding environmental and project design studies for NEPA and subsequent project permitting."

EPA's Project Manager for the Pebble Project, John Pavitt, and Patty McGrath, EPA's Regional Mining Coordinator, met with Jeanne Hanson and others from NMFS to better understand NMFS concerns. In addition, John spoke with EPA's TWG participants and has heard similar concerns that the TWG process may not be working as intended. However, it is worth noting that at the last Steering Committee meeting in November, PLP committed to two improvements to the TWG process: 1) a timeline to release draft meeting notes two weeks after TWG meetings, with an approximate two week process

for agency participants to submit comments and have the final notes posted on the Alaska Department of Natural Resources web site, and 2) a goal to share study plans for the 2009 field season in January, far enough in advance to allow time for TWG's to meet, discuss and provide input *prior to* the field season starting.

I welcome your suggestion to convene the key agencies participating in the TWG process, to assess how the process is working for the regulators, and provide some unified feedback to PLP. Your letter also requested a discussion of how State of Alaska primacy of the National Pollutant Discharge Elimination System (NPDES) program could affect the future National Environmental Policy Act (NEPA) and permitting process for the Pebble Mine and structure and function of the Steering Committee and TWGs. We can discuss this, as well, at the meeting.

Please contact John Pavitt of the Alaska Operations Office in Anchorage at 902-271-3688 to arrange for a meeting of State and federal agencies and to prepare an agenda.

Sincerely,

Michael F. Gearheard, Director
Office of Water and Watersheds

Cc: John Pavitt, AOO/A
Patty McGrath
Marcia Combes, AOO
Jeanne Hanson, NMFS
Tom Crafford, ADNR
Leroy Phillips, USACE
Phil Brna, USF&W
Bud Rice, NPS